Procedure adopted for working the Income-tax Regulation.

READ—

Government Order No. F. 5996-6005—I. T. 35-23-5, dated the 28th April 1924, passing orders in regard to the procedure adopted for working the Income-tax Regulation

2. Proceedings of the Legislative Council at the session held in June 1925, relating to the subject.

ORDER NO. FL. 1891-901—I. T. 5-25-2, DATED 12TH OCTOBER 1925.

At the Legislative Council Session held in June 1925, several non-official members of the Legislative Council spoke about the hardship caused to assessees particularly in the moffusil by the procedure adopted for the administration of the Income-tax Regulation. The criticisms and objections raised were severally answered and the provisions of law and practice were explained. In view, however, of the importance of the subject, Government have again examined the various representations, obtained the opinions of the Deputy Commissioners of Districts and the Commissioner of Income-tax in respect of the several points urged in the discussions and are pleased to pass the following orders for general information and guidance:—

2. The several objections and criticisms offered in regard to the administration of the Income-tax Regulation may be briefly summarised as follows :—

(1) Persons in rural parts who lend small sums of money are considered to be big money lenders and are assessed on the confidential reports received. Being illiterate, they keep no accounts and when asked to produce accounts, they fail to do so and consequently are assessed to tax without any further enquiry.

(2) The form of "Return of Income" is generally in English and the illiterate villagers not knowing what it is, keep it by. Such people are assessed "in the absence of return." As a result, they are subjected to tax and even penalty, and their objections are not heeded, because they are assessed in the absence of return of income.

(3) Several confidential circulars are issued by the Commissioner of Income-tax for the guidance of the officers and references are made to them in assessment orders. Parties are at a disadvantage in not knowing what they are. Such circulars are *ultra vires* and have to be put a stop to. Officers should rely only on the Regulation and Rules framed thereunder.

(4) Accounts produced are rejected on flimsy grounds. They are not believed and are said to be spurious.

(5) People who are well-to-do have escaped assessment and there is loss of revenue to Government. On the other hand, a large number of people who are really poor are harassed by levy of tax on the strength of imaginary incomes.

(6) Assessment is made on the turn-over basis after rejecting the accounts produced. The rates of profits adopted are very heavy and the Department have their own way of calculating profits. This has caused great hardship to merchants.

(7) A mixed Committee of officials and non-officials may be appointed to fix the rate of profit of each calling.

(8) The Income-tax work of the taluks which are directly under the charge of the Deputy Commissioners should be entrusted to some other officer in order to remove the hardship caused to the assessees in the matter of appeals.

(9) There are no trained accountants in the moffusil offices and assessment becomes arbitrary. The Income-tax Officers do not themselves examine the accounts produced, but leave the matter to the clerks.

(10) There are no standardised forms of accounts prescribed and so the assessees are at a loss to know what the Department expects of them.

(11) The assessing officers are now placing too much reliance on the confidential reports of Amildars and Inspectors.

(12) Appeals should be allowed in cases where accounts are not produced or returns not furnished.

(13) Appeals should lie to the Civil Courts against orders of assessments made under the Income-tax Regulation.

(14) The assessment hould sbe based on a three year basis and the system of compounding may be introduced.

3. As regards the first point relating to the assessment of persons of small income in the moffusil, Government observe that circular instructions were issued in March 1924, that notices for submission of return of income should not be issued indiscriminately to persons who are *prima facie* not assessable. The assessing officer is required to exercise his discretion in the issue of notices to the persons whose names are included in the Amildar's lists. Under the present rules, the minimum income prescribed for the purpose of the annual lists of potential assessees is Rs. 1,800 under the head salaries, and Rs. 1,440

under other heads of income. Government consider that these limits may be raised to Rs. 2,000 and 1,800 respectively with a view to further minimise the inconveniences caused to people with no assessable income. Separate action will be taken to amend the rules under the Income-tax Regulation. In preparing such lists, Amildars and Inspectors will be required to furnish full details and definite information regarding the assessable income of persons included in the list. Of course, the records connected with these confidential enquiries and reports should be treated as strictly confidential and kept in the personal custody of the Amildar. To enable the Amildars of taluks having a large number of assessees to carefully prepare the annual lists based on reliable information, Government are inclined to agree to the suggestion that Special Inspectors may be appointed to collect the necessary materials and advise the Amildars. For the present, one Inspector on Rs. 150 may be appointed as a tentative measure and his work confined to the important trading centres. The services of this Inspector may also be availed of by the Income-tax Officers to audit the accounts produced by the assessees. The Commissioner of Income-tax is requested to submit suitable proposals separately for the orders of Government. It is difficult to lay down a hard and fast rule as to how the assessment should be made in cases in which no accounts are produced or no regular method of accounting has been employed by the assessee. Under the proviso to Section 13 of the Regulation, Income-tax officers are allowed discretion in computing Income-Ttax in such cases. Government desire to impress on Assessing Officers that they should exercise the discretion vested in them by Law sympathetically with reference to the circumstances of the assessee as ascertained by personal enquiries and as already directed in para 2 of the Government Order of 28th April 1924, the assessment should be based on tangible data and the facts on which conclusions are based should be mentioned in the assessment order.

4. As regards the second point *viz.*, supply of returns of income in Kannada, Government observe that in accordance with the Circular No. XIII, dated 22nd October 1924 issued by the Commissioner of Income-tax, Income-Tax Officers are required to restrict the issue of English Notices only to those who are conversant with that language. In all other cases, notices are required to be issued in Kannada language only. As, however, it might happen that forms in one language or the other would get exhausted before fresh forms could be supplied, the Commissioner is requested to get the forms of return of Income printed with bilingual (English and Kannada) headings in future.

5. It was urged that the issue of confidential circulars by the Commissioner of Income-Tax for the guidance of officers should be put a stop to as a reference to such circulars in the assessment orders placed the parties at a disadvantage. As the circulars are issued mainly to regulate the departmental procedure, Government do not see the force of the objection. Clear instructions will however be issued to assessing officers not to refer in any assessment order to any circular or order a copy of which the party cannot be permitted to have on application. In this connection, Government desire that all circulars issued by the Income-Tax Commissioner and also all orders and circulars issued by Government in regard to Income-Tax Administration, whether under the old or the present Regulation, should be carefully reviewed for deleting all old and obsolete circulars and orders and effecting necessary modification in the others in order to facilitate the work of Income-tax Officers and so as to avoid unnecessary hardship to assessees. The Income Tax Commissioner is requested to report within 1st December next the modifications and additions necessary. The instruction contained in an official memo of December 1920 issued by the Income-Tax Commissioner that transfers in a Hindu family should not be recognised for purposes of assessment unless there has been a partition which should be evidenced by a partition deed should be suitably revised immediately. The circulars thus collated and revised will after approval by Government, be embodied in Part II of the Income-Tax Manual.

6. As regards the complaint against the rejection of accounts on flimsy grounds, Government have already issued instructions in their Order of 28th April 1924 that assessing officers should assign reasons in their assessment orders for the non-acceptance of the accounts produced by the assessees. If such reasons are not given, appellate officers may remand the cases for the purpose.

7. The fifth point about devising measures against well-to-do persons escaping assessment has already been dealt with in para 3 *supra* and the proposed appointment of a Special Inspector will help in bringing such cases promptly to the notice of the authorities. While, on the one hand, it would be vexatious to the public if notices are issued to persons with low income, it is very necessary in the interests of Government revenue that no person who is likely to be assessable to income-tax should be left out. The responsibility of the Inspectors and Amildars in preparing annual lists carefully does not absolve the Income-Tax Officers.

8. As regards the criticism levelled against the procedure of computing the assessable income on the turn-over basis, Government observe that the question has been carefully considered and instructions have been issued for the guidance of Income Tax

Officers that adverse inference should not be drawn by the non-production of katcha books by Excise Contractors and that the rates of profits of various trades, when assessments have to be made on the turn over basis, should be fixed as far as possible after consulting some of the respectable merchants engaged in the business. It is understood that the rates of profits on various businesses have been fixed in accordance with the instructions of Government. Assessing officers will be instructed to keep a record of all statistics collected by them in the course of the examination of accounts produced as to what rates of profit have been earned by representatives of each trade in the locality, so that these rates may serve as a guide in assessing similar cases on the turn-over basis. Government further consider that there is need for a periodical revision of these percentages and direct that needful steps be taken by the Commissioner to review them in the light of experience gained. In this view, Government cannot accept the suggestion that a mixed committee of officials and non-officials may be appointed to fix the rate of profit of each calling. There are practical difficulties in adopting such a course and besides some leading merchants are themselves opposed to the same.

9. The next item of complaint is in respect of the disability of assessees in the matter of appeal in the taluks which are directly under the charge of the Deputy Commissioners. At present the Income-Tax work including assessment on incomes less than Rs. 9,000 is being attended to by the Deputy Commissioner only in one Taluk in the Kadur District in Mudgere. Government will have no objection to transfer this class of cases to an Assistant Commissioner in the District and direct that the District Treasury Officer be required to take up the Income Tax work of this taluk up to Rs. 9,000 as assessing officer.

10. As regards the suggestion that trained accountants may be appointed to deal with Income Tax work in moffusil offices, Government observe that qualifications for clerks in Income Tax Offices have been prescribed and instructions have been issued for giving them the necessary training. The Commissioner is requested to take steps, after consulting the Deputy Commissioners of Districts, to transfer accountants periodically from the office of the Deputy Commissioner of Income Tax for Bangalore and Mysore to the moffusils and *vice versa* so that all accountants in moffusil offices may have some training in the Bangalore Office.

11. In regard to the proposal that standardised forms of accounts may be introduced, Government consider that suggestion is not a practicable one. It is not possible to enforce any standard form being used by the assessees. To facilitate the preparation of return of income, all necessary instructions for the same have been given in the form itself and a memo of additional instructions for Auditors has been recently issued by the Commissioner. A pamphlet on the *Audit of Accounts* is under preparation and when this is issued, the assessees will have greater facilities for the correct preparation of return of income.

12. As regards the complaint that the Assessing Officers are placing too much reliance on the confidential reports of Amildars and Inspectors, Government observe, that no definite action can be taken on such vague statements. Under the orders already issued, assessing officers are required to furnish in the assessment order the facts on which their conclusions are based so as to give an opportunity to assessees to know on what grounds they have been assessed and to rebut, if necessary, the basis of computation. The Commissioner is requested to issue necessary subsidiary instructions in conformity with the orders of Government.

13. In regard to the suggestion that appeals should be allowed when assessments are made in cases where the return is not furnished or accounts are not produced, the law requires that the remedy provided by Section 27 of the Income-Tax Regulation should be exhausted before an appeal can be entertained. No change is called for.

14. The Regulation provides ample remedies in the case of wrong assessments and an ultimate reference to the Chief Court. The suggestion that appeals should lie to the Civil Courts against orders of assessment cannot be accepted.

15. The existing Regulation does not permit of the Income-Tax annually leviable being compounded by a lump sum payment, and Government do not consider it expedient to effect any change in the law in this respect.

B. SRINIVASA IYENGAR,
Secretary to Government,
Revenue Department.

State Provident Fund.

READ—

Letter No. C. 23—25-26, dated 15th July 1925, from the Revenue Commissioner in Mysore, stating that the Deputy Commissioner, Kolar District, reports that Venkata Rao,